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12 **UNITED STATE DISTRICT COURT**

13 **DISTRICT OF NEVADA**

15 MICHELLE GARCIA,
16
17 Plaintiff,

18 vs.

19 NINE GROUP, LLC, a Delaware limited
20 liability corporation; NINE GROUP II, LLC,
21 a Delaware limited liability company; NINE
22 GROUP MANAGEMENT, INC., a Nevada
23 corporation; NINE GROUP
24 MANAGEMENT II, INC., a Nevada
25 corporation; N-M VENTURES, LLC, a
26 Nevada limited liability company; N-M
27 VENTURES II, LLC, a Nevada limited
28 liability company; RAUL DANIELS, an
individual,

Defendants.

CASE NO.

COMPLAINT AND JURY DEMAND

COMPLAINT AND JURY DEMAND

COMES NOW, Plaintiff, MICHELLE GARCIA, and complains and alleges against Defendants, and each of them, as follows:

JURISDICTION

1. This action is brought to remedy sexual harassment and discrimination all in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et. seq.* (“Title VII”) and the corresponding Nevada Revised Statutes (“NRS”) § 613.330 *et. seq.*

2. Injunctive and declaratory relief, damages and other appropriate legal and equitable relief are sought pursuant to 42 U.S.C. § 2000e *et. seq.* and Nevada Revised Statutes § 613.330 *et. seq.*

3. Venue herein is properly in this District pursuant to 28 U.S.C. §1441 (b), §706(f)(3) of Title VII, 42 U.S.C. §2000e-5(f)(3), and under NRS §613.330 *et. seq.* This Court has supplemental jurisdiction over the claims in this action arising under the laws of the State of Nevada pursuant to 28 U.S.C. §1367 and the principles of pendent jurisdiction.

PROCEDURAL REQUIREMENTS

4. Plaintiff has satisfied all administrative and jurisdictional requirements necessary to maintain this lawsuit.

THE PARTIES

5. All acts alleged herein occurred in Clark County, Nevada.

6. Defendant, NINE GROUP, LLC, is and was a Delaware limited liability company, and it is believed it is an employer within the meaning of Title VII, as amended.

7. Defendant, NINE GROUP II, LLC, is and was a Delaware limited liability company, and it is believed it is an employer within the meaning of Title VII, as amended.

8. Defendant, NINE GROUP MANAGEMENT, INC., is and was a Nevada corporation, and it is believed it is an employer within the meaning of Title VII, as amended.

9. Defendant, NINE GROUP MANAGEMENT II, INC., is and was a Nevada corporation, and it is believed it is an employer within the meaning of Title VII, as amended.

1 10. Defendant, N-M VENTURES, LLC, is and was a Nevada limited liability
2 company, and it is believed it is an employer within the meaning of Title VII, as amended.

3 11. Defendant, N-M VENTURES II, LLC, is and was a Nevada limited liability
4 company, and it is believed it is an employer within the meaning of Title VII, as amended.

5 12. The Defendants, NINE GROUP, LLC, NINE GROUP II, LLC; NINE GROUP
6 MANAGEMENT, INC.; NINE GROUP MANAGEMENT II, INC; N-M VENTURES, LLC;
7 and N-M VENTURES II, LLC will be collectively referred to herein as the "Nine Group."

8 13. Plaintiff believes that the Nine Group Defendants are all alter egos of one
9 another such that adherence to the corporate fiction would sanction and promote a fraud.

10 14. Defendant, RAUL DANIELS, is and was believed to be a resident of the United
11 States residing in the State of Nevada.

12 15. At all times mentioned herein, it is believed that RAUL DANIELS was an
13 employee, servant, and agent of the Nine Group, and at all times relevant herein was acting in
14 the course and scope of his employment or agency, and his actions were ratified by the Nine
15 Group.

16 **GENERAL ALLEGATIONS**

17 16. On or about January 24, 2007, the Nine Group hired Plaintiff as a VIP
18 Reservationist for Administration. Plaintiff's primary place of work was on the property
19 commonly known as the Palms Casino located at 4321 W. Flamingo Road in Las Vegas,
20 Nevada. This will hereinafter be referred to as the "Palms workplace."

21 17. On or about February 1, 2008, the Nine Group promoted Plaintiff to Special
22 Events Coordinator.

23 18. For a period of time, Plaintiff's position was eliminated due to downsizing and
24 she was transferred to another venue, the Stuff Store, in the Palms Casino.

25 19. On or about February 1, 2009, Plaintiff was transferred back to the position of
26 Special Events Coordinator and she was returned to the same location, namely, the "Palms
27 workplace," where she previously worked.
28

1 20. As the Special Events Coordinator, Plaintiff answered to various managers,
2 including Raul Daniels, National Sales Manager, who was one of Plaintiff's direct supervisors.

3 21. The Palms workplace consisted of a large, open area with various desks and
4 cubicles for different employees. Each of the desks and cubicles of the employees was open to
5 the vision of all other employees, including the signs, posters, and documents placed on the
6 walls.

7 22. At Raul Daniels' cubicle or work station, he placed multiple sexually suggestive
8 and offensive signs and posters. For example, some of these posters read:

9 a. "Thanks for taking one hand off your BlackBerry to finger-bang me."

10 b. Another read: "Please vote for my stupid mom Sarah Palin. I'm a whore
11 and I thank you for your vote!" (emphasis in original).

12 c. Another read: "If you're gonna ride my ass that hard, you could at least
13 pull my hair."

14 23. Other signs that were sexually suggestive in nature were also prominently
15 displayed at the Palms workplace.

16 24. Plaintiff was also subjected to sexually suggestive language. For example, her
17 supervisor compared the size of a rolodex to the size of his "cock."

18 25. Raul Daniels also repeatedly called Plaintiff a "bitch."

19 26. In April 2009, Raul Daniels began touching Plaintiff, including slapping her on
20 the buttocks multiple times, over Plaintiff's objection.

21 27. Raul Daniels also, on multiple occasions, grabbed Plaintiff's arm. When she
22 would try to pull away, he would make sexual comments such as "ya, you like that" or "oh ya"
23 while nodding his head "yes."

24 28. Throughout the time that Plaintiff worked as Special Events Coordinator, the
25 Human Resources director, Staci Haskins, visited the Palms workplace and would joke with
26 the managers there, including Raul Daniels, about the sexually suggestive language and signs.
27 But there was never a time that those signs were removed, covered up, or taken from the
28 workplace.

1 39. Plaintiff's immediate supervisor subjected her to the sexually harassing behavior
2 through signs, language, and his actions of grabbing her arm and slapping her on the buttocks.
3 Plaintiff's other supervisors and Raul Daniels's supervisor knew of these sexual actions but did
4 nothing to stop them.

5 40. The verbal and physical sexually offensive conduct endured by the Plaintiff was
6 so severe and pervasive that it was frequent, severe, physically threatening and humiliating,
7 and interfered with Plaintiff's work performance. Further, it affected Plaintiff's health causing
8 her to see a health care provider.

9 41. Given the aforementioned, Defendants' verbal and physical conduct was so
10 severe and pervasive as to constitute an objective abuse hostile work environment.

11 42. As a direct and proximate result of the conduct of the Defendants described
12 hereinabove, Plaintiff has sustained damages in excess of Ten Thousand Dollars (\$10,000.00).

13 43. As a result of Defendants' conduct, as set forth herein, Plaintiff has been
14 required to retain the services of an attorney, and, as direct, natural, and foreseeable
15 consequence thereof, has been damaged thereby, and is entitled to reasonable attorneys' fees
16 and costs.

17 44. Defendants have acted willfully and maliciously, and with oppression, fraud, or
18 malice, and as a result of Defendants' wrongful conduct, Plaintiff is entitled to an award of
19 exemplary or punitive damages.

20 **SECOND CAUSE OF ACTION**
21 **(NRS 613.330 *et. seq.* Hostile Work Environment and**
22 **Sexual Harassment against all Defendants)**

23 45. Plaintiff incorporates each of the foregoing allegations in this Complaint as if
24 fully set forth herein.

25 46. NRS 613.330 holds that it is an unlawful employment practice for an employer
26 to discriminate against an employee with respect to the employee's conditions of employment
27 because of her sex or to otherwise create a hostile work environment.
28

1 47. Defendants discriminated against Plaintiff on the basis of her sex (female) in
2 violation of NRS 613.330 by the following actions:

3 a. Subjecting Plaintiff to sexual harassment by Raul Daniels thereby
4 creating and maintaining a sexually charged hostile work environment that affected the
5 terms, conditions, and privileges of Plaintiff's employment.

6 b. Failing to take appropriate and timely action to prevent and promptly
7 correct the discriminatory treating and its substantial effects on Plaintiff.

8 c. Plaintiff's immediate supervisor subjected her to the sexually harassing
9 behavior through signs, language, and his actions of grabbing her arm and slapping her
10 on the buttocks. Plaintiff's other supervisors and Raul Daniels's supervisor knew of
11 these sexual actions but did nothing to stop them.

12 48. Given the aforementioned, Defendants' verbal and physical conduct was so
13 severe and pervasive as to constitute an objective abusive hostile work environment.

14 49. As a direct and proximate result of the conduct of the Defendants described
15 hereinabove, Plaintiff has sustained damages in excess of Ten Thousand Dollars (\$10,000.00).

16 50. As a result of Defendants' conduct, as set forth herein, Plaintiff has been
17 required to retain the services of an attorney, and, as direct, natural, and foreseeable
18 consequence thereof, has been damaged thereby, and is entitled to reasonable attorneys' fees
19 and costs.

20 51. Defendants have acted willfully and maliciously, and with oppression, fraud, or
21 malice, and as a result of Defendants' wrongful conduct, Plaintiff is entitled to an award of
22 exemplary or punitive damages.

23 **THIRD CAUSE OF ACTION**
24 **(Negligent Hiring, Training, and Supervision against the Nine Group Defendants)**

25 52. Plaintiff incorporates each of the foregoing allegations in this Complaint as if
26 fully set forth herein.

27 53. The Nine Group Defendants had a duty to hire competent persons, properly train
28 them for tasks they would perform, and supervise them in the performance of those tasks.

FIFTH CAUSE OF ACTION
(Assault and battery against Raul Daniels)

64. Plaintiff incorporates each of the foregoing allegations in this Complaint as if fully set forth herein.

65. Alternatively, should it be determined that Raul Daniels' actions were not within the course and scope of his employment, Plaintiff brings this cause of action against Raul Daniels individually.

66. On multiple occasions, Raul Daniels touched Plaintiff's body by, among other things, grabbing her arm and slapping her on the buttocks.

67. These touches were offensive, unwelcome, and caused Plaintiff to fear additional touching.

68. Plaintiff did not consent to the touching.

69. As a direct and proximate result of the conduct of the Defendants described hereinabove, Plaintiff has sustained damages in excess of Ten Thousand Dollars (\$10,000.00).

70. As a result of Defendants' conduct, as set forth herein, Plaintiff has been required to retain the services of an attorney, and, as direct, natural, and foreseeable consequence thereof, has been damaged thereby, and is entitled to reasonable attorneys' fees and costs.

71. Defendants have acted willfully and maliciously, and with oppression, fraud, or malice, and as a result of Defendants' wrongful conduct, Plaintiff is entitled to an award of exemplary or punitive damages.

WHEREFORE, Plaintiff prays judgment of this Court against the Defendants in this action, as follows:

1. General damages in an amount in excess of \$10,000.00;
2. Special damages in an amount in excess of \$10,000.00;
3. Punitive or exemplary damages;
4. Costs of suit and attorneys' fees;

5. For judgment for interest; and
6. For such other and further relief as is just and proper.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), 42 U.S.C. § 1981a(c)(1), and the Seventh Amendment to the United States Constitution, Plaintiff hereby demands a jury trial.

Dated this 11 date of April, 2011.

By: 

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